IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.641 OF 2006

Smt.Manisha P.Gaikwad, .. Petitioner.
Vs.
The State of Maharashtra & Anr. .. Respondents.

Mr Kinjal Haria, for the petitioner.
Mr P.A.Pol, APP for the respondent-State.
Respondent no.2 present in-person.

CORAM : D.B.BHOSALE, J.

DATED : 18TH JULY, 2006

P.C.:

1. Heard the learned counsel for the parties.

2, By this petition under Article 227 of the Constitution of India read with Section 482 of Cr.P.C., the petitioner-wife has prayed for quashing of the proceedings in Criminal Case No.163/PW/2004 pending before the learned Metropolitan Magistrate's 22nd Court at Andheri, Mumbai, which came to be filed on the first information report lodged by her under sections 498-A, 406,420 r/w 34 of IPC. The respondent-husband and the petitioner-wife both, are present in the Court. The petitioner-wife has also produced on record a decree of Divorce (Exhibit-C to the petition) by consent, in which she has agreed to withdraw the aforesaid case. The respondent-husband,

who is present in the Court, states that he has no objection for allowing the petitioner-wife to withdraw the amount of Rs.50,000/- as stated in paragraph 4 of the decree. I perused the contents of the petition and the other material including the decree of Divorce. I have also perused the affidavit filed by the respondent-husband dated 27.4.2006. The Supreme Court in **B.S.Joshi and Anr. Vs. State of Haryana and Anr., 2003(4) SCC 675**, in similar situation, in paragraph 14 and 15 of the judgment held thus:

> "14. There is no doubt that the object of introducing Chapter XX-A containing section 498A in the Indian Penal Code was to prevent the torture to a woman by her husband or by relatives of her husband. Section 498A was added with a view to punishing a husband and his relatives who harass or torture the wife to coerce her or her relatives to satisfy unlawful demands of dowry. The hyper-technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code."
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> 15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and section 320 of the Code does not limit or affect the powers under section 482 of the Code."

Keeping the aforesaid observations in view, I find no reason or ground for not granting the

prayers in the writ petition. In the circumstances, this petition is allowed. The proceedings of Case No.163/PW/2004 pending before the learned Metropolitan Magistrate, 22nd Court, Andheri, Mumbai are quashed.

(D.B.Bhosale, J.)